

Message Text

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ACTION OPIC-06

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TO SECSTATE WASHDC PRIORITY 2010

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E.O. 11652: N/A

TAGS: EINV, BG

SUBJECT: BELBAGCO

REF: DACCA 4624

1. SUMMARY. WE BELIEVE THAT BELBAGCO SIDE LETTER TO JANUARY, 1975 OPIC AGREEMENT OFFERS BDG LEGAL BASIS FOR PAYING BELBAGCO CLAIM. END SUMMARY.

2. ECON COUNSELOR MET SEPTEMBER 8 WITH INDUSTRIES SECRETARY, MAJID-UL HUQ TO REVIEW STATUS OF BELBAGCO AND OTHER US CLAIMS FOR NATIONALIZATION COMPENSATION. HUQ SAID THAT EXTENSION OF DEADLINE UNTIL OCTOBER 31 HAD BEEN GRANTED QUOTE EXPRESSLY END QUOTE TO MEET PROBLEM OF BELBAGCO CLAIM. ECON COUNSELOR SAID WE BELIEVED THIS GENERAL EXTENSION WOULD BE MOST HELPFUL FOR BELBAGCO AND ALSO FURTHER POTENTIAL US CLAIMANTS. WHAT BDG NEEDED, HUQ SAID, WAS LEGAL MEANS TO PAY BELBAGCO WITHOUT OPENING QUOTE FLOODGATES AND QUOTE FOR CLAIMS OF OTHER FIRMS REGISTERED IN PAKISTAN. (BDG MAY ALSO FEAR ADMISSION OF BELBAGCO CLAIM COULD JEOPARDIZE BDG POSITION CONCERNING DIVISION OF ASSETS WITH PAKISTAN.) HUQ SAID HE HAD HOPED OUR SEPTEMBER 2 REPLY TO HIS JUNE 25 LETTER WOULD POINT WAY TO LEGAL MEANS TO SETTLE BELBAGCO CLAIM. ECON COUNSELOR NOTED THAT SEPTEMBER 2 LETTER DID SO IN IDENTIFYING BELBAGCO SIDE LETTER TO JANUARY 1975 OPIC LIMITED OFFICIAL USE

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AGREEMENT. HUQ EXPRESSED HOPE LAW MINISTRY WOULD SHARE

THIS VIEW. WE HAVE PROVIDED HUQ WITH COPIES OF THAT SIDE LETTER, SIGNED BY HIS PREDECESSOR A.B.M. GHULAM MOSTAFA.

3. ECON COUNSELOR EXPLAINED USG VIEWPOINT CONCERNING DEADLINE FOR FILING CLAIMS ALONG LINES IN PARA 2, REFTEL A. WE ARE FOLLOWING UP WITH LETTER, TO PERMIT HUQ REFER MATTER TO LAW MINISTRY. (ALTAF HOSSAIN, H & W LAW FIRM, TELLS US THAT BDG AS MATTER OF PRACTICE DOES PERMIT FILING OF IMPERFECT CLAIMS WITH SUBSEQUENT CORRECTIONS, ADDITIONS AND AMENDMENTS. HENCE, ONLY INITIAL CLAIM NEED BE FILED BY OCTOBER 31, 197// HOWEVER, WE DOUBTFUL THAT BDG WILL AGREE TO ACCEPT CLAIMS IF THEY ARE FILED FOR THE FIRST TIME AFTER DEADLINE.)

4. INDUSTRIES SECRETARY AGREED IT WOULD BE USEFUL FOR BELBAGCO TO FILE CLAIM, BUT DECISION ON WHETHER TO ACCEPT IT RESTED WITH COMPENSATION COMMITTEE. WE HAVE RECEIVED AUTHENTICATED COPY OF DELAWARE STATE NATIONALITY CERTIFICATE AND WILL ATTEMPT FILE CLAIM LATER THIS WEEK. ALTAF HOSSAIN ADVISES THAT BDG CANNOT, IN ANY CASE, AVOID ADMISSION OF EFFORTS TO FILE CLAIM AND THAT, IF WORSE CAME TO WORST, CLAIM FORM COULD BE SENT BY REGISTERED MAIL WITH RETURN RECEIPT. ACCEPTANCE OF CLAIM FORMS CARRIES NO LIABILITY FOR PAYMENT OF CLAIM BY BDG.

5. ALTAF HOSSAIN, HAVING STUDIED DOCUMENTS, CONCLUDES THAT BDG POSITION IN JUNE 25 LETTER ACCORDS WITH LAW AS SET FORTH, INTER ALIA, IN COMPANIES ACT. LAW DISTINGUISHES BETWEEN COMPANY AS LEGAL PERSON AND ITS SHAREHOLDERS. BY WAY OF LAYMAN'S EXPLANATION, HOSSAIN NOTED THAT JUST AS SHAREHOLDERS ENJOY LIMITED LIABILITY FOR DEBTS CONTRACTED BY COMPANY, SO THEY ARE LEGALLY SEPARATE FROM COMPANY FOR OTHER PURPOSES. IN HOSSAIN'S OPINION, BEST LEGAL GROUND IN SEPTEMBER 2 LETTER IS REFERENCE TO BELBAGCO SIDE LETTER TO OPIC AGREEMENT. WE SHARE THIS VIEW.

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